IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

WRIT PETITION NO.7369 OF 2005

Azizur Rahman Faiz & Ors. : Petitioners

V/s.

The Deputy Director of Land Records,
Konkan Division, Mumbai Ors. : Respondents

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Dr.V. Tulzapurkar i/b. M/s.Kadam & Co., for the petitioners.

Mr.S.K.Chinchalikar, Asstt. Govt. Pleader for the respondent nos.1 to 3.

Mr.Omprakash Pandey for the respondent no.4.

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CORAM : S.A. BOBDE, J.

October 25, 2005.

P.C.

1. The petitioners have challenged the order dated 14.10.2005 passed by the Deputy Director of Land Records, Konkan Division, granting stay to the order of the City Survey Officer dated 4.11.2004 and the order dated 20.4.2005 of the Superintendent of Land Records. On the petitioners' application, the respondent no.4's name was deleted by order dated 20.4.2005 by the Superintendent of Land Records. The respondent no.4 preferred an appeal

before the Deputy Director of Land Records. In the

appeal, the respondent no.4 applied for stay of the order. The Deputy Director of Land Records has by an interim order restored the respondent no.4's name in the Property Register Card and further ordered necessary correction in the land records. This is an unusual step since it virtually amounts to allowing the respondent no.4's appeal by an interim order.

2. Admittedly, section 252 does not provide an alternate remedy to the petitioners since the appeal against an order granting or rejecting an application for stay is barred. In the circumstances, I am of view that the impugned order is liable to be set aside mainly on the ground that the IODs., etc., have been obtained by the respondent no.4 on the basis of the entry restored by the stay order.

3. Dr.Tulzapurkar, the learned counsel for the petitioners, submitted that the order is vitiated on account of the fact that the entry has been made in the Property Register Card in respect of the property. The consent decree referred to in the Property Register Card has not been produced before the authority. It is not necessary to go into this contention in view of the order that I propose to make.

4. In the circumstances, the impugned order is hereby set

aside. The Deputy Director of Land Records, Konkan Division, Mumbai, is directed to decide the appeal itself within a period of 15 days from the date the parties appear before him. The parties are directed to appear before the Deputy Director of Land Records on 14.11.2005. It is made clear that any order passed in these proceedings does not divest or confer title on a party nor can it have an effect ipso facto dispossessing the party.

5. The rule is made absolute in the above terms.

Sd/-

(S.A. BOBDE, J.)